

**Final Report to the Local Boundary Commission
Regarding the Proposal to Incorporate the
City of Gustavus**



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Preface

State law requires the Alaska Department of Community and Economic Development (DCED) to prepare both a preliminary report and a final report regarding petitions to incorporate local governments in Alaska.

DCED's Preliminary Report on the pending Gustavus city incorporation proposal was published in August 2003. The Preliminary Report examined details concerning the city incorporation proposal in the context of the relevant standards set out in law. The Preliminary Report concluded that the standards had been met.

The principal focus of this Final Report is to examine any timely comments received regarding DCED's preliminary report and address any relevant developments that have occurred since the Preliminary Report was published.

Documents relating to the city incorporation proposal have been made available for public review at the Gustavus Public Library. Materials have also been available on the Internet at:

<http://www.dced.state.ak.us/cbd/lbc/gustavus.htm>

DCED complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560.

Cover photographs (clockwise from the top):

- ✓ Gustavus School
- ✓ National Park Service Dock
- ✓ Glacier Bay Park Administrative Building
- ✓ Participants at DCED Informational Meeting

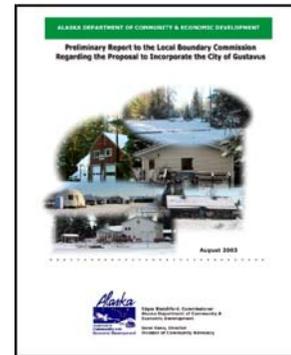
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PREFACE

Thirty-eight qualified voters in Gustavus (hereafter "Petitioner") petitioned the State of Alaska in January of this year to incorporate a second class city government in the unorganized borough. Following extensive public notice and a lengthy opportunity to file responsive briefs and comments regarding the proposal, the Alaska Department of Community and Economic Development (DCED) prepared and published a preliminary report on the proposal as required by State law (AS 29.05.080(c) and 3 AAC 110.530(b)).

The DCED's *Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus* (*Preliminary Report*) was published in August. It consisted of 202 pages of background, analysis, and supporting information. The *Preliminary Report* concluded that the Petition met the standards for incorporation of a second class city in the unorganized borough. The *Preliminary Report* included the DCED's preliminary recommendation that the Local Boundary Commission (LBC) approve the Petition without amendments or conditions. The DCED distributed its *Preliminary Report* to 45 individuals and posted it for public review on the Internet.



This document constitutes the DCED's final report regarding the Gustavus city incorporation proposal. Part I of the final report addresses significant relevant developments that have occurred since the *Preliminary Report* was issued. Part II summarizes the public informational meeting conducted by the DCED in Gustavus on September 25 in accordance with AS 29.05.080(a) and 3 AAC 110.520(a). Part III of this final report addresses timely comments regarding the DCED's *Preliminary Report* in accordance with 3 AAC 110.530(d). Part IV of this final report presents the DCED's final conclusions and recommendations to the LBC.

PART I - SIGNIFICANT RELEVANT DEVELOPMENTS SINCE PUBLICATION OF DCED's *PRELIMINARY REPORT*

A. Introduction

This section of the final report addresses significant relevant developments that have occurred since the *Preliminary Report* was issued.

B. Scheduling of October 29, 2003, Hearing

After the DCED conferred with the Petitioner's Representative, the Commission Chair scheduled a public hearing regarding the Gustavus city incorporation proposal. The hearing is scheduled for Wednesday, October 29, 2003, beginning at 6 p.m. in the Gustavus School Multipurpose Room.

Formal notice of the hearing has been given by the DCED under 3 AAC 110.550.



In that regard, notice was published in a display ad in the *Juneau Empire* and *Icy Passages News* (exceeding the minimum requirements of 3 AAC 110.550). The notice was also posted on the Internet through the State's *Online Public Notice* system¹ and on the LBC Web site.² Additionally, notice of the hearing was provided to the Petitioner's Representative who was asked to post the notice and place a copy of the notice with the Petition materials available for public review on or at the following locations: the Gustavus post office bulletin board, the Beartrack Mercantile bulletin board, the Glacier Bay National Park and Preserve (hereinafter Park) headquarters, Gustavus public library bulletin board, and the Gustavus public library repository for the incorporation petition documents.

The DCED also submitted a request to KTOO for a public service announcement of the notice of the hearing. Further, the DCED provided notice of the hearing to those who received a copy of the *Preliminary Report*.

¹ <http://notes3.state.ak.us/pn/pubnotic.nsf>

² <ftp://ftp.dcbd.dced.state.ak.us/DCBD/Gustavus/102903hearing.pdf>

PART II – SUMMARY OF INFORMATIONAL MEETING

A. Introduction

This section summarizes the informational public meeting conducted by the DCED in Gustavus in accordance with AS 29.05.080(a) and 3 AAC 110.520(a).

B. Summary of Informational Public Meeting



View of a portion of the audience at the September 25, 2003, DCED informational public meeting

On September 25, 2003, the DCED conducted a duly noticed public informational meeting concerning the Gustavus city incorporation proposal as required by AS 29.05.080(a) and 3 AAC 110.520. The meeting began at 7 p.m. in the Gustavus School Multipurpose Room. Approximately 55 to 60 persons attended the meeting. A copy of the materials that the DCED provided to those present at the informational meeting is included in this final report as Appendix A. The meeting lasted approximately 1½ hours.

The DCED presented an overview of its *Preliminary Report* and the DCED/LBC procedures, in general, and then entertained comments and questions from the public. Initial questions addressed whether any comments on the *Preliminary Report* had been filed, the deadline for such written comments, and the comparison between comments filed in this incorporation proceeding and those filed in the 1997 Gustavus incorporation.

Questions were also raised regarding the inclusion of Bartlett Cove in the boundaries for the City of Gustavus as proposed by the Petitioner and supported by the DCED in its *Preliminary Report*. Of particular interest were the comments that had been made about Bartlett Cove by the Hoonah Indian Association and the Park in response to notice of the Petition. The DCED summarized its conclusions concerning the Gustavus city boundaries. Among other things, the DCED explained its conclusions that Bartlett Cove should be included in the Gustavus city boundaries to ensure that the proposed city includes all the territory needed for full development of essential services and to recognize that the city's services and facilities would be used by visitors and residents of the Park.

Several questions were raised regarding the proposed budget for the City of Gustavus and the DCED's analysis thereof. The DCED summarized its petition-review process, which includes a detailed analysis and evaluation of the budget proposed in a petition and modifications thereto as determined necessary.

The issue of most concern to the members of the Gustavus community at the meeting was the 4 percent bed/vacation tax, both in terms of its characterization in the budget and its allocation once collected. The focus of the debate centered on inclusion of "vacation packages" as part of the 4 percent bed tax proposal.

Ultimately, a consensus was reached that inclusion of the vacation-package terminology may have been in error and that members of the lodging community who had formulated the 4 percent tax proposal would meet and clarify the intent of that tax. Following that meeting, the lodging owners and Petitioner's representatives pledged they would notify the DCED as to resolution of the issue so that the taxes supporting the City's budget could be accurately reflected in the DCED's final report; i.e., by September 29, the deadline for submitting written comments on the *Preliminary Report*.



A view of other attendees at the September 25, 2003, DCED informational public meeting

The DCED requested clarification whether the economic viability of the 4 percent tax would change as a result of its not being applicable to vacation packages. Commentors and Petitioner's representatives stated that the revenue projections from the 4 percent tax remained the same as reflected in the budget, it was only the nature of the tax that was at issue.

Also of concern with the proposed budget was the indication that one-half of the 4 percent bed-tax revenue would go to the Gustavus Visitors Association (GVA). The DCED explained that the city council could certainly authorize such an allocation but that it is not a binding determination or obligation on the City of Gustavus if its petition to incorporate is approved by the LBC. The DCED further explained that its *Preliminary Report* reflects the entire 4 percent bed-tax tax revenues as accruing to the City.

The DCED was also asked to describe the process for nominating candidates for city council if incorporation is approved by the LBC and an election is conducted. The DCED described that process for the audience.

PART III – CONSIDERATION OF COMMENTS ON *PRELIMINARY* *REPORT*

A. Introduction

State law (3 AAC 110.530(d)) requires the DCED to consider timely written comments on its preliminary reports in the preparation of its final reports. In this case, four sets of comments regarding the DCED's *Preliminary Report* were received as outlined in Table 1. A copy of the written comments is included in this final report as Appendix B.

Correspondent	Affiliation	Mailing Address	Length of Comments
Mr. Thomas R. Imboden	Alaska's TRI Bed & Breakfast of Glacier Bay	P.O. Box 214, Gustavus	two-page letter
Ms. Rhio Imboden Harper	None stated	P.O. Box 214, Gustavus	three-page letter
Ms. Tomie Patrick Lee	Superintendent, Glacier Bay National Park and Preserve	P.O. Box 140, Gustavus	two-page letter
Mr. Kenneth L. Klawunder	Petitioner's Representative	P.O. Box 156, Gustavus	one-page letter with a two-page attachment

B. Summary of the Comments

The comments from each of the correspondents are summarized below and are dealt with in detail later in this part of the final report.

1. Thomas R. Imboden (Alaska's TRI Bed & Breakfast of Glacier Bay)

Thomas Imboden expressed concern regarding the DCED's preliminary conclusion that the economy of Gustavus includes the human and financial resources necessary to provide municipal services on an efficient, cost-effective level as required for city incorporation by AS 29.05.011(a)(3) and 3 AAC 110.020. He concluded that "revenue projections from tourism taxes, sales taxes, federal and state transfer monies are not and do not meet the test of scrutiny."

Commentor Imboden's letter focused on the following factors relating to the human and financial resources standard:

- (1) the plausibility of projected revenues, particularly those relating to bed taxes and sales taxes;
- (2) the character of the local economy;
- (3) the effect that sales taxes would have on economic development;
- (4) the effect that prospective developments in the nearby community of Hoonah and the Park would have on independent tourists visiting Gustavus; and
- (5) trends in the value of real property in Gustavus.



2. Rhio Imboden Harper

Commentor Harper agreed that there is a need for city government in Gustavus. However, like commentor Imboden, she questions the DCED's conclusion that the city incorporation proposal meets the human and financial resources standards set out in AS 29.05.011(a)(3) and 3 AAC 110.020. She concluded that, "the basis for the budget and therefore the expenditure proposed are mistaken and unreliable."

Commentor Harper's letter focused on concerns regarding the following specific issues:

- (1) the plausibility of the projected expenses, particularly those relating to insurance;
- (2) the character of the local economy;
- (3) the plausibility of projected revenues, particularly those relating to bed taxes and sales taxes;
- (4) the viability of property taxes to support city government;
- (5) the capacity of the proposed city to maintain capital facilities such as a dock.

3. Tomie Patrick Lee (Park Superintendent)

Superintendent Lee wrote that, "the National Park Service is supportive of this [incorporation] effort, including inclusion of that portion of Glacier Bay National Park lying within the Bartlett Cove developed area." However, she reiterated her objection to the boundaries stated in her letter of April 24, 2003. Specifically, she states, "I continue to take exception with how [the proposed boundary] is drawn to include a marine portion of the park."



Glacier Bay National Park Administrative Building

4. Kenneth L. Klawunder (Petitioner's Representative)

Petitioner's Representative wrote expressing agreement with the analysis and conclusions in the DCED's *Preliminary Report*. He also stated that the intent of the Petitioner regarding the nature of the "bed tax" was not accurately reflected in the Petition. The Petition refers to a proposed 4 percent bed/vacation package tax. However, he stressed that the Petitioner's intent was to impose the 4 percent tax only on overnight accommodations. The Petitioner's intent was to apply the 2 percent general sales tax to parts of a vacation package other than the value of overnight accommodations.

The Petitioner's Representative also stressed that the budgeted expenditures in the Petition for the library, landfill, and emergency response functions (listed at \$10,000 annually for each function) are in addition to the existing budgets for those functions.

C. Review of the Issues Raised by the Correspondents

The DCED has identified 10 fundamental issues raised in the timely comments on its *Preliminary Report*. Each of these issues is addressed in this portion of the report.

1. Plausibility of Projected Revenues, Particularly Those Relating to Bed Taxes and Sales Taxes

Both Thomas Imboden and Rhio Imboden Harper questioned the accuracy of Petitioner's projected revenues from taxes, and Thomas Imboden questioned the future availability of federal and State assistance identified in the proposed budget. They asserted that such revenues would be insufficient to provide municipal services in the efficient, cost-effective manner required for city incorporation under State law. They also contend that the economy of the community is neither expanding nor sound.

The DCED notes that claims such as these that question the very foundation of a petition are generally advanced in response to notice of a petition so that they may be addressed in responsive comments from the Petitioner and in the DCED's preliminary report. Unfortunately, these resource arguments surfaced only at the end of the period for commenting on the *Preliminary Report* and just days before the final report deadline in this proceeding.

Because the filing of the Imboden/Harper comments coincided with the deadline for written comments, the DCED's options for obtaining further information were limited to oral communications. Nonetheless, the DCED believes it obtained sufficient information to adequately address the resource concerns they raise.

Before addressing their comments, however, the DCED observes that the assertions made by Thomas Imboden and Rhio Imboden Harper are in marked con-

trast to the views expressed by commentators at the DCED September 25 public meeting held in Gustavus. The main resource concerns raised at that meeting addressed whether the DCED made an independent analysis of the Gustavus proposed budget (which it did) and whether the amounts projected for insurance were adequate. Even those raising the "vacation-package" question as part of the 4 percent bed tax proposal stated that only the characterization of the proposed tax was at issue, not the revenue projections themselves. Indeed, several times during the discussion of the issue, the DCED requested clarification on that point.

The proposed budget for Gustavus relies, in part, on raising taxes (sales and bed) from tourism attracted by the adjacent Park. The Petitioner's budget, as revised, is reflected in Table 2 below. The tax calculations for the Gustavus budget rely on a 2002 Sheinberg Associates' report.³

**Table 2
DCED's Revised Budget of Petitioner to Reflect Expenses and Income of Operations for Gustavus Emergency Response (GER), Landfill, and Library and other Operations of the Gustavus Community Association (GCA) to be Assumed by the City of Gustavus**

	Year 1	Year 2	Year 3		Year 1	Year 2	Year 3
EXPENSES				INCOME			
City Clerk	46,000	46,000	46,000	Organizational grant	50,000	25,000	0
CPA Fees	11,000	4,000	4,000	Revenue Sharing	0	0	0
Insurance	15,000	15,000	15,000	Municipal Assistance	0	0	0
Attorney	20,000	12,000	12,000	Raw Fish Tax	1,500	1,500	1,500
Equipment	7,000	7,000	7,000	DCED Fish Tax	1,659	1,659	1,659
Community Chest	2,098	2,098	2,098	Forest Receipts	103,665	103,665	103,665
Gustavus Community Network	35,340	35,340	35,340	PILT	38,850	38,850	38,850
Gustavus Emergency Response	39,075	39,075	39,075	Capital Matching Grant	0	0	0
Gustavus Lands Legacy	5,500	5,500	5,500	Community Chest	9,487	9,487	9,487
Phone/postage/utilities	2,500	2,500	2,500	Gustavus Community Network	36,096	36,096	36,096
Elections costs	1,000	1,000	1,000	Gustavus Emergency Response	29,075	29,075	29,075
Planning (retainer fees)	12,000	12,000	12,000	Gustavus Landfill	33,377	33,377	33,377
Travel	6,000	6,000	6,000	Gustavus Lands Legacy	11,136	11,136	11,136
Library	32,450	32,450	32,450	Gustavus Library	22,450	22,450	22,450
Landfill	43,377	43,377	43,377	Gustavus Preschool	1,000	1,000	1,000
Gustavus Preschool	2,120	2,120	2,120	4% bed tax	98,302	98,302	98,302
Road Maintenance	86,853	86,853	86,853	2% sales tax	140,000	140,000	140,000
Contractual	16,812	16,812	16,812				
Reserve Fund	43,589	43,589	43,589				
TOTAL EXPENSES	\$427,714	\$412,714	\$412,714	TOTAL INCOME	\$579,597	\$554,597	\$529,597
				SURPLUS	\$151,883	\$141,883	\$116,883

³Forming Glacier Bay Borough and Report on Senate Bill 48, prepared for the City of Hoonah, January 2002.

This budget also reflects the changes discussed by the DCED in its *Preliminary Report*.

To ascertain whether tourism to the Park (and, thus, to Gustavus) was decreasing as alleged by commentators Imboden and Harper, the DCED called the Park to determine if there had been a decline in tourist visitations. J. E. Davis, Assistant Superintendent at the Park, stated that the most recent reports available were for 2001.⁴ However, he contended that the number of guests to the Park in 2002 and 2003 had remained about the same as in 2001.

The DCED also contacted the Petitioner's Representative and President of the GVA to determine their views on tourism, the health of the Gustavus economy, and whether it had indeed changed as claimed by commentators Imboden and Harper. Both Petitioner's Representative and GVA President expressed positive views regarding the economy in Gustavus.

They both stated that while the season had started out slightly slow, it increased in the latter part of the summer and made up for the slow beginning. The GVA President noted that a growing trend in tourism was for "impulse" travel rather than long-range planning. She also agreed with the conclusion made by the Park that tourism had not declined and observed that the Park's figures were the most reliable ones obtainable.

The GVA President stated that rather than ending on a down note, tourism for the past season was up 15 percent. Moreover, Petitioner's Representative pointed out that business at the Imboden bed and breakfast (B&B) had been down because he had shut down his lodging for repair during one of the busiest parts of the tourist season.



Boats at the Glacier Bay National Park dock

The Petitioner's Representative stated that he had checked with staff at the Park regarding Thomas Imboden's assertion that fishing charters and day-boat tours in Glacier Bay would not be subject to sales tax because the activity would be outside the city boundaries. The Park staff responded that all concessionaire activities would be subject to the 2 percent sales tax and 4 percent bed tax.

Rhio Imboden Harper's claim that the Park concessionaire is using a smaller vessel because business is down was addressed by both Petitioner's Representative and GVA President. Both asserted that the smaller vessel was

⁴Detailed information regarding the Park and 2001 operations are available at <http://www.nps.gov/glba>.

being used because the larger one had been rented out to the Navy. According to the Petitioner's Representative, J. E. Davis of the Park staff had stated that while the smaller vessel is not always full, it frequently is filled to capacity. He also noted that the results of a recent Price Waterhouse study show that the Park's concessions should see a gradual growth of about \$1.5 million over the next five years.

The Petitioner's Representative also disagreed with Thomas Imboden's statements about other lodges closing or changing to long-term renting because of an economic down turn. Petitioner's Representative stated that one B&B closed because its owner no longer wanted to be in the business and moved away; one had been closed for three years, but a different one in the same location had opened in the past year and was being expanded; one cited as being closed was continuing operations next season; one was going to be rented out for a new cafe; one that had gone to a long-term rental this summer for a construction crew was returning to the B&B business next season; and the other that had gone to long-term renting wanted to remain in the lodging business but not as a B&B.

Commentor Imboden also questioned whether federal and State transfer monies would be available as relied on by Petitioner in the Gustavus budget. While the federal and State revenues projected in the Gustavus budget have been consistently passed through to affected communities, there is always the possibility that they could be cut. To some extent that possibility exists whether Gustavus is incorporated or not; e.g., the recent State elimination of FY 2004 and FY 2005 Revenue Sharing monies from which Gustavus (through the GCA) had previously benefited. The prospect of declining federal and State assistance emphasizes the need for a local government unit that has the capacity to generate funds through taxes and other means not available to unincorporated communities.

The DCED concludes that the tourist and lodging industries in the Gustavus area appear to be sufficiently reliable and that the Petitioner's projected revenues from bed and sales taxes from those industries are plausible.

2. Plausibility of Projected Expenses, Particularly Those Relating to Insurance

As set out above, questions were raised at the DCED informational public meeting regarding the adequacy of insurance coverage (as reflected in the proposed Gustavus budget) for the several services that the city intends to provide. Commentor Harper also asserted that the projected expenses for insurance in the budget appeared too low. She observed that Petitioner's alternative representative had stated the insurance figures in the budget did not include the current insurance expenses paid by the separate entities (GER, landfill, library).

In his responsive comments to the DCED's *Preliminary Report*, Petitioner's Representative addressed the insurance question raised at the informational public meeting. He stated:

The Petitioners would also like to clarify one item in the budgets of the Landfill, [GER], and the Library. It is the intent of the Petitioners that each of the above mentioned budgets would receive \$10,000 above their existing budgets.

That clarification to the insurance expense reflects an annual expenditure of approximately \$30,000 per year for the services that the City of Gustavus would be providing. Inclusion of additional insurance expenses from the ongoing enterprises that the City will be assuming also requires a corresponding adjustment for income from those enterprises. The Gustavus budget in Table 2 reflects those adjustments and includes all the enterprises that the City will be taking over from the GER and GCA.

To determine whether the \$30,000 insurance expense was adequate, the DCED contacted the Alaska Municipal League Joint Insurance Association (AML) and asked for its review of the budgeted insurance expenses for the services to be provided. AML determined that the proposed Gustavus insurance budget, as clarified by Petitioner's Representative, appeared adequate.

3. Character of the Local Economy

On page 1 of his letter, Thomas Imboden disputed the DCED's characterization of the local economy as "somewhat seasonal in nature." He maintains that it would be more accurate to describe it as "heavily seasonal."

Commentor Imboden indicated that the Gustavus economy is comprised of two principal components – tourism and government employment. He stressed that tourism is purely seasonal and that many of the jobs at the Park are seasonal as well. He concluded, "this does not present a healthy economic base." Further, he asserted that "Double-digit deflation in tourism offers adverse circumstance for any potential City of Gustavus." Commentor Imboden also asserted that, "the majority of lodge owners and sport fishing charter/operators do not remain in Gustavus in the off-season."

Rhio Imboden Harper also expressed the view that the DCED *Preliminary Report* did not portray an accurate contemporary view of the local economy. On pages 1 and 2 of her letter, she states as follows:

In Standard C.4.e of the report, the community is described as "expanding and sound". All of the items used to base the report are not reflective of the last 3 years, where Gustavus has undergone a fundamental shift.

Since the Glacier Bay Compensation payout the community of Gustavus has lost diversity in its economic basis, and lost families and population. Two large fish/crab processors have ceased operations. (There is one small sport fishing

processor with retail sales remaining.) Fishermen were compensated and left town. . .

The community is not expanding or sound. The store has been for sale for quite some time without buyers. There are three other main service businesses for sale, an air service, the propane and wharfage companies. . .

Tourism, specifically independent tourism is decreasing throughout Alaska. Since the events of 2001, the stock market downturn, the general economic downturn and the war this year, traveling to Alaska, as an independent traveler is harder and harder. The petitioner's count of 14 bed and breakfasts/lodges does not take into account the 6 bed and breakfasts/lodges that closed their businesses, or switched to only long term rentals, because of the traveling market.

The DCED conferred with the Petitioner's Representative, the President of the GVA, Park staff, and others regarding their views on the state of the local economy. It was generally acknowledged that the 2003 tourism season was initially less robust than had been first anticipated. However, tourism activity increased later in the season. The President of the GVA characterized the 2003 tourist season as "normal." She expressed confidence in the bed tax revenue projections in the Petition. The Park also indicated that the number of guests at the Glacier Bay Lodge has been steady since 2001.

The Petitioner's Representative confirmed that two local seafood processors have ceased operations. Both operations were small (one or two-persons each). As noted in Section III C.1 above, the Petitioner's Representative also addressed the lodging closing statements made by commentor Imboden.

Regarding reports that four major businesses are for sale because of the poor state of the economy, the Petitioner's Representative advised the DCED as follows:

- The assertion that the local grocery store is for sale is incorrect. That business has not been on the market for three years. He stated that Rhio Imboden Harper had indicated she would be correcting her comments in that regard.⁵
- The assertion that the local air service operation is for sale is also incorrect.
- The local trucking/wharfage and propane business are owned by the same individual. Both are for sale because the owner wishes to move to be with his children. The amount of freight handled by the trucking/wharfage business has increased over the years. Similarly, the propane business "has always been a money maker as it is the only one in town."

⁵The DCED received an e-mail statement from her on the evening of September 29, 2003, correcting her comments regarding sale of the store.

The Petitioner's Representative noted that there have been 22 new housing starts (2 of which are cabins) in Gustavus in the past year. In addition, there are seven new commercial structures in progress. The Petitioner also advised the DCED that the results of a recent study for the National Park Service by Price Waterhouse show that the concession at the Glacier Bay Lodge should grow from \$3,500,000 annually to a figure of \$5,000,000 by 2008. That represents projected growth of more than 40 percent.

The DCED acknowledges that significant components of the Gustavus economy are seasonal. However, the further examination of the Gustavus economy suggests to the DCED that it is indeed "expanding and sound."

4. Trends in the Value of Real Property in Gustavus

Thomas Imboden states on page 2 of his letter that, "there are many homes for sale and numerous vacant lots for sale. The asking price of homes and lots has been decreasing and continues to decrease."

The DCED conferred with the Petitioner's Representative regarding this matter. The Petitioner's Representative contacted two active realtors who list properties in Gustavus. Both reportedly advised the Petitioner that prices have been stable since the 1990s. Land prices typically range from \$18,000 to \$26,000 depending upon the location. It was noted that a single acre-lot near Salmon River is currently listed at \$85,000. There are reportedly 38 properties in Gustavus listed for sale through real estate agents. The listings are roughly evenly split between homes or cabins and land. Other properties are for sale by owners.

Despite allegations to the contrary, it does not appear as though the real estate market in Gustavus has suffered a significant downturn in recent years.

5. Viability of Property Taxes to Support City Government

Rhio Imboden Harper stated on page 2 of her letter that, "In Standard C.4.e the DCED considered the levy of property taxes viable." She expresses the belief that property taxes are not viable in Gustavus and that the imposition of such "could cause the demise of the community over the long run."

The DCED addressed the value of taxable property on page 66 of its *Preliminary Report* not because the Petitioner proposes or anticipates that the prospective City of Gustavus will levy property taxes but because the law specifically requires the LBC to consider property values (and a host of other factors) when evaluating any proposal to form a city government. (See AS 29.05.011(a)(3) shown on page 2 of Appendix B in the *Preliminary Report* and 3 AAC 110.020(1)(F) on page 2 of Appendix C in the *Preliminary Report*).

Consideration by the LBC of the value of property is not required only when a prospective city government proposes to levy a property tax. The value of taxable property can be an important indicator of the strength of the local economy.

The DCED noted that the Petitioner's estimate of the value of taxable property in the territory proposed for incorporation is \$254,287 per capita. If correct, the City of Gustavus would rank second among all 162 municipal governments in Alaska in terms of per-capita property values. While the State Assessor (an employee of the DCED) expressed some reservations regarding the estimate, the DCED nonetheless concluded that it appears that property taxes would be a viable option for raising revenue. Again, neither the DCED nor the Petitioner proposes that the City of Gustavus will levy property taxes.

6. Capacity of the Proposed City to Maintain Capital Facilities Such as a Dock

Rhio Imboden Harper states on page 3 of her comments that:

[I]f a new dock were built in Gustavus, maintenance would have to [be] assumed by the local government i.e. the City of Gustavus. The petitioner does not build that tax burden potential in to their proposed budget. No one has ever given the estimates of cost. Several petitioners have expressed opinions that the only way Gustavus will get a dock fitted to our needs is to incorporate. It is touted as one of the reasons for incorporation. I believe founding the city on the promise of any extra leverage in obtaining funding for 'rectifying' dock problems is extremely optimistic in the light of the current political administration's emphasis on surface road building and concurrent non funding of already proposed ferry service in the Southeast.

Municipal governments, in general, have access to more federal and State assistance or grants than do unincorporated communities. In addition, municipal governments have the authority to issue general obligation bonds to acquire, construct, improve, and equip capital facilities. (AS 29.47.180.) Municipal governments may also levy user or services fees to help fund various activities. Funding for any capital facility improvement/maintenance by a municipality requires the approval of its governing body. The City of Gustavus would have the same planning authority and funding mechanisms available as other similarly situated cities. Further, given the heavy tourist industry, albeit seasonal, that affects Gustavus, there appears to be a funding base available to help pay for facilities that the tourists and related industry would be using; e.g., a dock.

7. Effect That Sales Taxes Will Have on Economic Development

Thomas Imboden expressed concern that the imposition of a sales tax will dampen economic development in Gustavus. Citing the cost of electricity as an example, he stated on page 1 of his letter that, "An additional cost of 2 percent to the cost of energy will surely have an unfavorable factor to any business decision to initiate activities within the City of Gustavus."

The cost of electricity for residential service and single-phase small commercial service in Gustavus is \$0.510 per kilowatt-hour. (Tariff of Gustavus Electric Company, Inc., APUC No. 417, Original Sheet No. 28.) Residential and

community facility customers receive an adjustment under the power cost equalization program of \$0.32 per kilowatt-hour for the first 500 kilowatt-hours. (Tariff of Gustavus Electric Company, Inc., APUC No. 417, 51st Revised Sheet No. 34.) At \$0.51 per kilowatt-hour for commercial users, a 2 percent sales tax would add only \$0.0102 to the cost of a kilowatt-hour of electricity.⁶

The electrical rates charged in Gustavus are typical of those charged by investor-owned utilities in small rural communities throughout Alaska. Moreover, as the DCED noted on page 13 of its *Preliminary Report*, the majority of second class cities in the unorganized borough levy sales taxes. Therefore, the circumstances outlined by commentor Imboden are not uncommon in similarly situated communities in Alaska.

Barring other considerations, of course, an increase in the cost of electricity (even one penny per kilowatt-hour) will not enhance economic development. However, the establishment of a city government that levies taxes that are used, in part, to promote economic development (e.g., the proposed allocation of nearly \$50,000 of bed tax revenues annually to the GVA) will, arguably, bring about positive developments in that regard.

Speculating about the effect that sales and bed taxes will have on local economic development is a matter for local voters. The issue does not relate to any legal standard that must be addressed by the Commission.

If there is particular concern over the levy of sales taxes on electricity or any other commodity, the local governing body would have the authority to adopt an ordinance granting an exemption of such from the sales tax. Any exemption would, of course, result in lower revenues for the City or the need for higher taxes. For example, according to the latest figures available from the Regulatory Commission of Alaska, Gustavus Electric Company, Inc., received gross revenues of \$749,474 in 1999. Based on the 1999 figure, an exemption of electricity from the sales tax would result in an annual loss of nearly \$15,000 in sales tax revenue.

8. Effect That Prospective Developments in Hoonah and the Park Will Have on Independent Tourists Visiting Gustavus

On page 2 of his letter, Thomas Imboden asserts that pending developments in Hoonah and the Park will adversely impact independent tourism in Gustavus. According to him, these developments include “a proposal to increase the number of allowed vessel entries into Glacier Bay by approximately thirty percent during the peak tourist season.” Other developments include the establishment of facilities in nearby Hoonah to accommodate large cruise ships. He speculates

⁶ DCED notes that there are also demand rates that could apply and that the rate for three-phase large commercial customers is \$.38 per kilowatt-hour plus applicable demand rates.

that these developments will shift demand for activities such as whale watching and fishing charters from Gustavus to Hoonah and elsewhere.

The Petitioner contacted Park officials to discuss the prospect for increases in the number of vessels permitted to enter Glacier Bay. Park officials discounted the prospect of a heavy (e.g., 30 percent) increase in the number of vessels permitted to enter the Park.



Private concessionaire for kayak rentals at Glacier Bay National Park

Reports of plans to promote large cruise ships at Hoonah are regarded to be accurate. However, such does not mean that the economy of Gustavus would necessarily suffer. Gustavus could actually increase tourism by providing services and facilities for tourists in large vessels stopping in Hoonah in much the same way that Haines provides services and facilities for tourists

who stop in Skagway on large cruise ships.

9. Suitability of the Proposed Boundaries, Particularly with Regard to Inclusion of Marine Waters of Bartlett Cove

As noted earlier, Park Superintendent Tomie Patrick Lee expressed support for the city incorporation proposal. However, she indicated continued opposition by the National Park Service to the inclusion of any marine area of Bartlett Cove within the proposed city boundaries. Specifically, she stated as follows in her September 26 letter:



Offices at the Park

I am writing to comment on the recently released Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus. As an integral part of that community the National Park Service is supportive of this effort, including inclusion of that portion of Glacier Bay National Park lying within the Bartlett Cove developed area. As I have stated before, I fully recognize that the social and economic components of these two notes of our community – Gustavus and Bartlett Cove – are interwoven in myriad and complex ways, and can best be managed within a single municipality.

However, as I also stated before in my comment concerning the petition for incorporation of Gustavus as a second class city government, I do still have one issue with the original petition and this subsequent preliminary report. Although I do not object to the proposed boundary including a portion of the Bartlett Cove area, I continue to take exception with how it is drawn to include a marine portion of the park.

Superintendent Lee stated that her concern stemmed from circumstances that rendered it “problematic to the function of collecting taxes or fees for use of the marine waters or the dock at Bartlett Cove.” She outlined the following three specific issues in that regard:

1. By management prerogative Glacier Bay National Park does not allow commercial activities to collect any fees inside the boundary of the park other than official concession activities that are land based in Bartlett Cove. Those receipts are generated elsewhere. Management prerogative is based on normal business practices and visitor needs. Collecting taxes from receipts generated outside the boundary of the proposed city will be problematic.
2. All construction, maintenance and management operations of the dock facility at Bartlett Cove (all public facilities within the park boundary) are provided by federal tax dollars through federal appropriation procedures. Charging an additional tax or fee for the use of those facilities will be very problematic for the proposed city.
3. Any use of the proposed city services by park visitors (or the park) would presumably have an appropriate charge set by the city that adequately covers the cost of those services.



A view of Bartlett Cove

The DCED notes that the same arguments could be made with respect to most, if not all, of the other portions of the Park (except the Glacier Bay Lodge). Yet, the National Park Service has expressed no objection to the inclusion of any area of the Park except the tidelands and submerged lands in Bartlett Cove. Those tidelands and submerged lands comprise a relatively small portion of the Park area within the territory proposed for incorporation. The extent of the Park

within the proposed boundaries of the City of Gustavus is shown in Appendix C of this report as Map 1.

The exclusive focus on the tidelands and submerged lands has led to speculation by some that the National Park Service's concern stems from a longstanding unresolved dispute with the State of Alaska over ownership of the submerged lands within the Park. The following account of the dispute appears on the National Park Web site:⁷

The dispute arose out of the Alaska Statehood Act of 1958, which conferred all navigable waters and submerged lands of the public domain to the state of Alaska. The state claimed that the two presidential proclamations of 1925 and 1939 which established Glacier Bay National Monument covered the land area only, leaving the bays and coastal waters in the public domain; thus they now

⁷ <<http://www.nps.gov/glba/adhi/adhi10.htm>>

belonged to the state of Alaska. The NPS held otherwise. The jurisdictional dispute simmered along, neither the state nor the Park Service wanting to take the matter to court, yet each party being leery of any action by the other that would prejudice its case.

While the National Park Service may be “leery of any action by the [State of Alaska] that would prejudice its case,” the DCED cannot conceive that the inclusion of submerged Park lands within the boundaries of the Park will have any effect on the outcome of the dispute. Establishing municipal boundaries has no effect whatsoever on property ownership.



Dock at Bartlett Cove

Moreover, the DCED notes that much of the Park already lies within the corporate boundaries of a municipal government – the City and Borough of Yakutat. The prospect exists for incorporation of the Glacier Bay Borough encompassing Gustavus and the remainder of the Park. Moreover, several other units of the National Park system in Alaska lie within the boundaries of municipalities. These include the following:

- Alagnak Wild River in the Lake and Peninsula Borough;
- Aniakchak National Monument and Preserve in the Lake and Peninsula Borough;
- Bering Land Bridge National Preserve (portion) within the Northwest Arctic Borough;
- Cape Krusenstern National Monument within the Northwest Arctic Borough;
- Denali National Park and Preserve within the Denali Borough and the Matanuska-Susitna Borough;
- Gates of the Arctic National Park and Preserve within the Northwest Arctic Borough and North Slope Borough;
- Katmai National Park and Preserve within the Bristol Bay Borough and Lake and Peninsula Borough;
- Kenai Fjords National Park within the Kenai Peninsula Borough;
- Klondike Gold Rush National Historical Park within the City of Skagway;
- Kobuk Valley National Park within the Northwest Arctic Borough;
- Lake Clark National Park and Preserve within the Lake and Peninsula Borough;
- Noatak National Preserve within the Northwest Arctic Borough; and
- Sitka National Historical Park within the City and Borough of Sitka.

A map showing these park areas is included as Map 2 in Appendix C.

Superintendent Lee acknowledges that Gustavus and Bartlett Cove “are interwoven in myriad and complex ways, and can best be managed within a single municipality.” The DCED concurs. The DCED stresses that part of tidelands and

submerged lands contain significant development as shown in photos included throughout this Report. As the National Park Service indicated, this development is an integral part of the community.

Beyond the issue of municipal taxation of activities at Bartlett Cove, the DCED maintains that there are other legitimate reasons for including the developed tidelands and submerged lands within the boundaries of the proposed city. In particular, the extensive development and activity within the developed area of Bartlett Cove raise the clear prospect that there could be a significant demand for city services, particularly emergency medical services, within the area in question.



Dock at Bartlett Cove

Therefore, the DCED continues to maintain that the boundaries approved by the LBC in 1997 and proposed by the Petitioner in the current proceeding are appropriate today.

10. The Petitioner's Intent Regarding the 4 Percent Bed Tax

As noted earlier, the Petitioner's Representative concurred with the analysis and conclusions in the DCED's *Preliminary Report*. However, the Petitioner's Representative expressed the need to clarify the Petition's intent with respect to proposed city taxes.

Currently, the Petition calls for the levy of a 2 percent general sales tax and a 4 percent bed tax/vacation package tax. For example, Section 12 of the Petition states as follows:

Lodges, B&B's, hotels, cabin rentals, and other short-term bed rentals will charge a bed tax of 4% on the entire vacation package. (This will include room, meals and transportation if they are all part of the package; any tours, fishing charters, or similar items should be taxed at the 2% sales tax rate). Any items taxed at the 4% bed tax rate will be exempt from the 2% sales tax. All other sales and services are subject to a 2% sales tax, unless they are exempted by council action or forbidden by state or federal law.



Entrance to Glacier Bay Lodge

In his comments on the *Preliminary Report*, Kenneth Klawunder stated as follows:

We greatly regret that an early draft of the provisions for a bed tax was inadvertently included with the original petition. At the General meeting of the [GCA] conducted on January 9, 2003, the petitioner's representative reported the proposed tax structure of the new city. At that meeting it was made clear to all attendees that a 4% tax would be charged on Beds only and that all other business transactions within the city and recreational activities charged by lodges and Inns would be assessed at the Sales Tax rate of 2% (emphasis in original).



Fuel facility and tank farm

As reflected in the summary of the informational public meeting held September 25, 2003, this issue was the major topic of discussion. There was clear consensus at that meeting that the intent was to levy the 4 percent tax only on overnight accommodations. It was also the consensus of those in attendance at the informational public meeting that the projected revenues from the 4 percent tax reflected the Petitioner's intent. In other words, the projected revenues from the

4 percent tax were based only on the estimated annual transactions relating to overnight accommodations, not entire vacation packages.

Based on the foregoing, the DCED includes in Part IV of this final report, the recommendation that the LBC amend the Petition to provide that the proposed levy of the 4 percent excise tax will apply to overnight accommodations only.

PART IV

FINAL CONCLUSIONS AND RECOMMENDATIONS

A. Introduction

Part IV of this final report presents the DCED's final conclusions and recommendations to the LBC concerning the pending proposal for incorporation of the City of Gustavus.

B. Final Conclusions

The DCED hereby adopts the analysis and conclusions expressed in its *Preliminary Report*, except as modified in this final report. The DCED's final conclusions regarding the proposal are summarized below.

Conclusion 1: Gustavus comprises a community as defined by LBC regulations (3 AAC 110.990) and as required for city incorporation under AS 29.05.011 and 3 AAC 110.005.

The conclusion that Gustavus is a *bona fide* community under the laws relating to city incorporation is supported by the following ten findings:

- (a) Gustavus has 421 residents; nearly 17 times the threshold used in the legal definition of a community applicable to the Gustavus incorporation proceedings.
- (b) For more than two decades, Gustavus has qualified for various unincorporated community financial aid programs offered by the State.
- (c) The right to reside in Gustavus is not restricted.
- (d) Gustavus is not adjacent to another community of which Gustavus could be reasonably considered part.
- (e) Generally, employment in Gustavus is not provided by an employer that requires occupancy in the community as a condition of employment.
- (f) The population density of the proposed City of Gustavus is comparatively low in relation to most incorporated communities. However, that characteristic is partly due to the inclusion of relatively substantial uninhabited and undeveloped lands within the proposed boundaries which, in 1997, the LBC

determined to be properly part of a proposed City of Gustavus. Inhabitants of Gustavus generally live in close geographical proximity that is characteristic of neighborhood living.

- (g) The Gustavus election precinct encompasses all of the populated territory proposed for incorporation and no other settlements.
- (h) There is a public school in Gustavus. Student enrollment in the past five years was 45 in 2002 and 2001, 48 in 2000, 56 in 1999, and 74 in 1998.⁸
- (i) There are currently 157 active business licenses in Gustavus.
- (j) Gustavus exhibits local employment characteristic that are representative of a community.

Conclusion 2: The boundaries of the proposed City of Gustavus include all areas necessary to provide municipal services on an efficient scale as required for city incorporation by AS 29.05.011(a)(2) and 3 AAC 110.040(a).

The conclusion that this standard is met reflects the following two findings:

- (a) Land use in Gustavus by permanent and seasonal residents, tourists and other visitors, businesses, and government agencies is concentrated in the territory proposed for incorporation. Generally, all will benefit from proposed services of the prospective City of Gustavus (landfill, public library, emergency medical services, fire protection, road maintenance, and funding for the GVA). Other services (financial support for the clinic, platting, planning, land use regulation, dock funding, and funding for a future boat harbor) may be provided in the future. The boundaries proposed by the Petitioner include all territory for the full development of these essential services.

- (b) Some have argued that the tidelands and submerged lands in Bartlett Cove should be excluded from the proposed city. Notwithstanding federal ownership, Bartlett Cove is an integral part of the proposed development of essential services. It will benefit from most, if not all, of the services provided by the city and will be a vital source of local revenue for the city.

Fuel dock at Bartlett Cove

⁸ The DCED understands that the change in school enrollment largely results from increases in home schooling in Gustavus.

Conclusion 3: The boundaries of the proposed City of Gustavus include only the present community, plus reasonably predictable growth, development, and public safety needs during the 10 years following incorporation as required for city incorporation by 3 AAC 110.040(b).

The conclusion that this standard is met stems from the following two findings:

- (a) The 1996 petition to incorporate the City of Gustavus requested boundaries encompassing nearly 144 square miles, which the LBC reduced in 1997 to 39.25 square miles.
 - (b) The pending Petition proposes boundaries identical to those approved by the LBC in 1997.
-

Conclusion 4: The boundaries of the proposed City of Gustavus exclude entire geographic regions or large unpopulated areas, except where justified by the application of the incorporation standards as required for city incorporation by 3 AAC 110.040(c).

The conclusion that this standard is met reflects the following finding:

- The proposed boundaries include the uninhabited and undeveloped Dude Creek Critical Habitat Area, comprising approximately 7 square miles. In 1997, the LBC determined that those lands were properly included within the boundaries of a prospective Gustavus city government.
-

Conclusion 5: The boundaries of the proposed City of Gustavus are contiguous and without enclaves to allow for the full development of essential city services as required for city incorporation by 3 AAC 110.040(d).

The conclusion that this standard is met is based on the following finding:

- The territory proposed for incorporation is contiguous and without enclaves.
-

Conclusion 6: The boundaries of the proposed City of Gustavus do not overlap the boundaries of an existing borough or city. Therefore, standards and procedures for annexation to or detachment from existing boroughs and cities need not be applied as would otherwise be required by 3 AAC 110.040(e).

The following finding supports the conclusion that this standard is met:

- The boundaries of the territory proposed for incorporation do not overlap any other local government entity.

Conclusion 7: The economy of Gustavus includes the human and financial resources necessary to provide municipal services on an efficient, cost-effective level as required for city incorporation by AS 29.05.011(a)(3) and 3 AAC 110.020.

The conclusion that this standard is met results from the following 16 findings:

(a) Anticipated functions of the proposed City of Gustavus in the immediate-term consist of landfill, public library, emergency medical services, fire protection, road maintenance, and funding for the GVA. Other services (e.g., financial support for the clinic, platting, planning, land use regulation, dock funding and funding for a future boat harbor) may be provided over the long-term.

(b) The Petitioner originally projected expenditures of \$344,500 for FY 2005; \$329,500 for FY 2006; and \$329,500 for FY 2007. Following announcement of reductions in State financial aid to local governments, the Petitioner (without formally amending the Petition) advised DCED that the cutbacks likely would be addressed by reducing both contractual expenditures and transfers to a planned reserve fund.

The Petitioner's comments on the *Preliminary Report* reflected the need for further clarification regarding the proposed budget to include existing budgets for the library, landfill, and GER. Discussions with the Petitioner's Representative also indicated that the expenses of all the activities of the GCA that would be subsumed by the City should be reflected in the budget. The final analysis reflects the following reasonably projected operating expenditures:



Glacier Bay National Park concession housing

\$427,714 for FY 2005; \$412,714 for FY 2006; and \$412,714 for FY 2007.

(c) To correlate with the GCA adjustments made to the expense segment of the budget, Petitioner's Representative noted that the revenue associated with GCA activities should be reflected in the revenue segment of the budget, as well as proposed revenue adjustments for National Forest Receipts and Raw Fish Taxes as discussed in the DCED *Preliminary Report*. The DCED's final analysis of reasonably predicted revenues amount to the following: \$579,597 for FY 2005; \$554,597 for FY 2006; and \$529,597 for FY 2007.

- (d) The revised revenue and expenditure projections result in anticipated surpluses of \$151,883 in FY 2005; \$141,883 in FY 2006; and \$116,883 in FY 2007.
- (e) The Petitioner's expenditure projections appear to be reasonable and fairly consistent with municipalities of similar size and circumstance.
- (i) The Petitioner's three-year operating budget, as modified in this final report is feasible and plausible. That view is reinforced by the Petitioner's proposal that upon incorporation, the GCA will transfer its assets (including more than \$900,000 in federal compensation for economic losses from the phase-out of commercial fishing in Glacier Bay) to the City.
- (j) Although principal components of the local economy are seasonal, the Gustavus economic base is expanding and sound.
- (k) Gustavus enjoys a relatively high level of property valuation and business activity.
- (l) Anticipated industrial, commercial, and resource development includes several National Park Service projects.
- (m) 2000 federal census data indicate that median family income and per-capita income for Gustavus residents was only slightly below the statewide averages. A greater disparity exists between the 2000 median household income in Gustavus compared to that of the entire state. The difference for that measure is attributed to fundamental population characteristics of Gustavus that do not reflect negatively on the resources of the community of Gustavus.
- (n) The land within the proposed city contains a wide variety of uses. Real property owners include the Park, State of Alaska, Dude Creek Critical Habitat Area, Alaska Mental Health Trust, Cook Inlet Regional Corporation, and private individuals.
- (o) The population consists of skilled and professional people sufficient to support a local government.
- (p) Community residents exhibit a reasonably predictable level of commitment and interest in sustaining a city government.



Maintenance facilities at the Glacier Bay National Park headquarters

Conclusion 8: The population of Gustavus is large and stable enough to support city government as required for city incorporation by AS 29.05.011(a)(4) and 3 AAC 110.030(a).

The conclusion that this standard is met reflects the following five findings:

- (a) The State Demographer estimates that 421 individuals lived in Gustavus in 2002. That population is larger than over half of all incorporated communities in Alaska.
- (b) The population of Gustavus exhibits relatively high permanent residency (the 2000 census reported that 77 percent of the occupied homes in Gustavus were inhabited by their owners, a figure well above the statewide average of 62.5 percent).
- (c) Although Gustavus has experienced a population growth plateau for the past three years, it has undergone, in relative terms, significant population growth for the previous 3 decades.
- (d) At the time of the 2000 census, the rental vacancy rate in Gustavus was 8 percent, slightly higher than the statewide average of 7.8 percent.
- (e) The community of Gustavus has a somewhat more aged population than the state as a whole (in 2000, the median age for a resident of Gustavus was 24 percent higher than the statewide average).

Conclusion 9: There is a need for city government in Gustavus as required by AS 29.05.011(a)(5) and 3 AAC 110.010(a) for city incorporation.

The conclusion that this standard is met reflects the following seven findings:

- (a) In 1997, the LBC determined that Gustavus exhibited a need for city government, in part, due to the size of its population. Since then, the population of Gustavus has grown by 17.9 percent – more than 2 ½ times the growth of Alaska's population rate as a whole during the same period. In the past six years, Gustavus has risen in ranking from the sixteenth most populous unincorporated community in the unorganized borough to the ninth such community. The current estimated population of Gustavus exceeds that of 81 of Alaska's 145 city governments. The population of Gustavus is approximately 10 percent greater than the median population of all incorporated communities in Alaska. Based on population size, the need for municipal



Sewage treatment facility

government (either incorporation as a city government and/or inclusion within a regional borough) has increased over the past six years.

- (b) In 1997, the LBC found that there was a need for city government in Gustavus, in part, because of reductions in State financial aid to communities. Since then, funding for State Revenue Sharing, Safe Communities, and State Capital Matching Grants has been eliminated altogether. Based on such considerations, the need for city government in Gustavus has increased because city governments have the capacity to generate funds through taxes and other means not available to unincorporated communities.
- (c) In 1997, the LBC concluded that circumstances relating to health, safety, and general welfare in Gustavus contributed to the need for city government in the community. Those circumstances related to (1) Gustavus' exceptionally high water table, fragile aquifer; and lack of sewage management; (2) lack of a platting authority; and (3) the cessation of all State environmental/public health oversight of subdivision plans in Alaska. While the Petition does not formally propose that the prospective City of Gustavus construct and operate a sewer system or exercise platting authority, it would have the capacity to do so.
- (d) In the year following the last Gustavus incorporation effort, the State designated the Department of Natural Resources as the platting authority for areas of the unorganized borough outside of city governments that exercise platting. However, the platting functions provided by the Department of Natural Resources are severely limited under State law. For example, no consideration is given by the State platting authority to engineering standards, soils, water tables, lot sizes, road standards, or other characteristics that relate to public health and safety. Instead, the review is limited to ensure that legal access is provided for all properties and that provisions are made for survey and monumentation. A title review to insure that all interest holders of the property sign the plat is also currently required.
- (e) In its 1997 decision, the LBC determined that existing and anticipated growth and development in Gustavus were further evidence of the need for city government in Gustavus. As noted, the rate of growth (measured in terms of population growth) since 1997 has greatly outpaced that of Alaska.
- (f) Particularly in the absence of borough government, city incorporation promotes maximum local self-government.
- (g) The City of Gustavus would have the capacity to provide a broad range of fundamental services for which a need exists. In the immediate term, services would include the landfill, library, fire protection, rescue services, roads, and economic development (funding to promote tourism). Over the long-term other services such as financial support for the clinic, dock, boat harbor, airport, planning, platting, land use regulation, and other services may be added.

Conclusion 10: The services to be provided by the proposed City of Gustavus cannot be provided by annexation to an existing city as required by AS 29.05.021(a) and 3 AAC 110.010(b).

The conclusion that this standard is met reflects the following three findings:

- (a) Hoonah is the incorporated community (city government) in closest proximity to Gustavus. However, it is approximately 25 miles south of Gustavus separated by Icy Strait.
 - (b) State law (3 AAC 110.130(d)) prohibits the annexation of “entire geographical regions or large unpopulated areas,” except where justified by application of all city annexation standards. The DCED cannot conceive of circumstances under which the annexation of the large unpopulated expanse between Gustavus and Hoonah could be justified.
 - (c) In 1997, the LBC concluded that it was “implausible” that the City of Hoonah could serve Gustavus.
-

Conclusion 11: Incorporation of the City of Gustavus would serve the best interests of the state as required for city incorporation under AS 29.05.100 and as defined under 3 AAC 110.042.

The conclusion that this standard is met reflects the following three findings:

- (a) In 1997, the LBC concluded that incorporation of the City of Gustavus will promote the principles of maximum local self-government with a minimum of local governmental units set forth in Article X, § 1 of Alaska’s constitution. That conclusion remains valid today.
 - (b) The State encourages regions and communities to assume and exercise local self-determination and provide municipal services that are funded and provided at the local level. Such is in the best interests of the public state-wide and is consistent with the constitutional intent regarding municipal government in the unorganized borough.
 - (c) Incorporation will not expose the State to unusual and substantial risks as the prospective successor to the city in the event of the city’s dissolution.
-

Conclusion 12: The Petitioner has provided a transition plan properly addressing the proposed change as required for city incorporation under 3 AAC 110.900.

The conclusion that this standard is met reflects the following four findings:

- (a) The Petitioner’s transition plan demonstrates forethought regarding which services will be provided to the territory proposed for incorporation.

- (b) The transition plan demonstrates the Petitioner's good faith to extend services.
- (c) The Petitioner's plan contemplates that, upon a favorable vote for incorporation of Gustavus, the GCA will vote to cease operations and move all assets and liabilities to the City. Additionally, the plan sets out an anticipated process for the levying and collection of taxes in accordance with ordinances of the City of Gustavus.
- (d) The Petitioner has conferred with appropriate individuals and organizations regarding transition to city government.

Conclusion 13: Incorporation of the City of Gustavus will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. Such is a condition under 3 AAC 110.910 for city incorporation. Federal law, 42 U.S.C. § 1973, establishes similar requirements.

The conclusion that this standard is met reflects the following two findings:

- (a) No voting qualifications, prerequisites, standards, practices, or procedures will result from incorporation of the City of Gustavus that would deny or abridge the right to vote on account of race or color or because a person is a member of a language minority group.
- (b) The proposed city incorporation will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

C. Final Recommendations

The DCED recommends that the LBC approve the Petition for incorporation of the City of Gustavus with one amendment. The amendment recommended by the DCED is to modify the Petition to provide that the 4 percent excise tax will be strictly a "bed tax" (i.e., it will apply only to short-term overnight accommodations).

With the amendment, incorporation of the City of Gustavus will still be conditioned upon voter approval of the proposition authorizing the proposed city to levy the excise taxes (i.e., both the 2 percent general sales tax and the 4 percent "bed" tax).

Appendix A

**September 25, 2003 Gustavus City Incorporation
Informational Meeting Handouts**



AGENDA

INFORMATIONAL MEETING REGARDING GUSTAVUS CITY INCORPORATION PROPOSAL

Thursday, September 25, 2003 – 7:00 p.m.
Gustavus School – Multipurpose Room
Gustavus, Alaska

I Introductory Comments by DCED

- ### II “Executive Summary of the Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus”
- A. Overview by DCED
 - B. Questions and Comments from the Public
-

III Opportunity for Public Comment on DCED Preliminary Report

- ### IV “Tips to Maximize the Effectiveness of Public Comments and Testimony During the LBC Hearing Regarding the Gustavus City Incorporation Proposal”
- A. Summary by DCED
 - B. Questions and Comments from the Public
-

- ### V “Future Proceedings Regarding the Gustavus City Incorporation Proposal”
- A. Summary by DCED
 - B. Questions and Comments from the Public
-

VI Opportunity for Other Relevant Questions and Comments from the Public

VII Adjourn



Prepared by Department of Community & Economic Development for Gustavus City Incorporation Informational Meeting – Gustavus School, Multipurpose Room, 7:00 p.m., September 25, 2003

The Local Boundary Commission (LBC) Public Hearing on the Skagway Borough proposal will be held:

**October 29, 2003
6:00 p.m.
Gustavus School
Multipurpose Room
Gustavus, Alaska**

For more information, please contact:

Local Boundary Commission Staff
Department of Community & Economic Development
550 W. Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Telephone: 907-269-4559
Fax: 907-269-4539
Email: LBC@dced.state.ak.us

Tips to Maximize the Effectiveness of Public Comments and Testimony During the LBC Hearing Regarding the Gustavus City Incorporation Proposal

The following suggestions are offered to residents of Gustavus and others interested in the proposed incorporation of the City of Gustavus. The suggestions are intended to offer ways to make public comments and testimony at the LBC hearing more effective.

1. Come prepared and informed. Carefully plan your comments. Prior to the hearing, you may wish to review the following materials:

- A. the standards established in State law for incorporation of cities (these are also summarized in # 2 below);
- B. the January 2003 petition for incorporation of the City of Gustavus;
- C. the letters from the six correspondents regarding the petition;
- D. the petitioner's reply to the six letters; and
- E. the preliminary and final reports of the Alaska Department of Community and Economic Development regarding the proposed incorporation of the City of Gustavus.

2. Provide relevant comments. The LBC's decision on the incorporation pro-

posal will be based on standards established in law and applied to the facts regarding the Gustavus incorporation proposal. Comments and testimony that address those standards and facts will be most helpful to the LBC. In summary, the standards require a determination by the LBC that in this case:

- A. Gustavus must meet the definition of a community set out in 3 AAC 110.990.
- B. The boundaries of the proposed City of Gustavus must include all areas necessary to provide municipal services on an efficient scale as required by AS 29.05.011(a)(2) and 3 AAC 110.040(a).
- C. The boundaries of the proposed City of Gustavus must include only the present community, plus reasonably predictable growth, development, and public safety needs during the 10 years following incorporation as required by 3 AAC 110.040(b).
- D. The boundaries of the proposed City of Gustavus must exclude entire geographic regions or large unpopulated areas, except where justified by the application of the incorporation standards as required by 3 AAC 110.040(c).

- E. The boundaries of the proposed City of Gustavus must be contiguous and without enclaves as required by 3 AAC 110.040(d).
- F. The boundaries of the proposed City of Gustavus may not overlap the boundaries of an existing borough or city without addressing standards and procedures for annexation to or detachment from existing boroughs and cities as required by 3 AAC 110.040(e).
- G. The economy of Gustavus must include the human and financial resources necessary to provide municipal services on an efficient, cost-effective level as required by AS 29.05.011(a)(3) and 3 AAC 110.020.
- H. The population of Gustavus must be large and stable enough to support city government as required by AS 29.05.011(a)(4) and 3 AAC 110.030(a).
- I. There must be a need for city government in Gustavus as required by AS 29.05.011(a)(5) and 3 AAC 110.010(a).
- J. As required by AS 29.05.021(a) and 3 AAC 110.010(b), an existing city government cannot be capable of efficiently and effectively providing services to Gustavus through annexation.
- K. Incorporation of the City of Gustavus must serve the best interests of the state as required by AS 29.05.100 and as defined under 3 AAC 110.042.
- L. The Petitioner must provide a plan for the proper transition to the proposed new city government as required by 3 AAC 110.900.
- M. Incorporation of the City of Gustavus must not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin as required by 3 AAC 110.910 and 42 U.S.C. § 1973.

3. Observe the rules.

- A. New written materials may not be filed with the LBC at the hearing unless allowed by the LBC Chair upon a showing of good cause.
- B. A three-minute limit on comments to the LBC by the public is established in law. The limit is intended to ensure that the LBC will be able to hear from all persons who wish to provide relevant comments. Please honor the time limits.

4. Avoid repetition. If an earlier speaker has addressed points to your satisfaction, you may wish to simply note that you agree with the earlier remarks, and spend your allotted time on relevant topics that have not yet been addressed.

Future Proceedings Regarding the Gustavus City Incorporation Proposal

Prepared by DCED for Gustavus City Incorporation Informational Meeting
September 25, 2003, Multi-Purpose Room, Gustavus School

Date/Time	Occurrence
<p>9 a.m. Monday, September 29, 2003</p>	<p><u>Deadline for written comment on DCED Preliminary Report.</u> Comments must be <u>received</u> by 9 a.m., Monday, September 29, 2003 by mail, fax, or e-mail at: Local Boundary Commission Staff Department of Community and Economic Development 550 West 7th Avenue, Suite 1770 Anchorage, Alaska 99501-3510 Fax: 907-269-4539 or 907-269-4563 E-mail: LBC@dced.state.ak.us</p>
<p>October 7, 2003</p>	<p><u>Release of DCED Final Report.</u> Deadline for mailing of DCED's Final Report regarding the Gustavus city incorporation proposal.</p>
<p>October 15, 2003</p>	<p><u>Petitioner's witness list.</u> Deadline for submission to DCED of list of witnesses that Petitioner plans to call to provide sworn testimony at the October 29, 2003 hearing before the LBC.</p>
<p>6:00 p.m. Wednesday, October 29, 2003</p>	<p><u>LBC hearing.</u> LBC will conduct public hearing on the Gustavus city incorporation proposal in the Multi-Purpose Room of the Gustavus School. Hearing components will include: 1. summary of DCED's conclusions and recommendation; 2. Petitioner's opening statement (limited to 10 minutes); 3. sworn testimony of witnesses called by the Petitioner; 4. period of public comment (limited to 3 minutes per person); 5. Petitioner's closing statement.</p>
<p>Within 90 days of last hearing (LBC typically makes decision following conclusion of hearing)</p>	<p><u>LBC decision.</u> LBC will render verbal decision taking one of the following actions: 1. approve the Petition as submitted; 2. approve the Petition with amendments and/or conditions; 3. deny the Petition.</p>
<p>Within 30 days of verbal decision (LBC typically issues written statement within 14 days of decision)</p>	<p><u>Statement of decision.</u> LBC adopts a written statement of decision explaining the basis for its decision.</p>
<p>Within 18 days after the LBC's written statement of decision is mailed under 3 AAC 110.570(f)</p>	<p><u>Opportunity to seek reconsideration.</u> A person or entity may request reconsideration in accordance with 3 AAC 110.580. LBC will grant reconsideration <u>only</u> if: 1. a substantial procedural error occurred in the original proceeding; 2. the original vote was based on fraud or misrepresentation; 3. the LBC failed to address a material issue of fact or a controlling principle of law; or 4. new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.</p>

Date/Time	Occurrence
<p>Within 20 days after the LBC's written statement of decision is mailed under 3 AAC 110.570(f)</p>	<p><u>Action on requests for reconsideration.</u> LBC typically meets to address all requests for reconsideration. However, requests for reconsideration are automatically denied if not approved within the time noted.</p>
<p>Within 30 days after the last day on which reconsideration can be ordered</p>	<p><u>Opportunity for appeal to the Superior Court.</u> An appeal of the LBC decision may be made to the Superior Court under the provisions of the Alaska Rules of Appellate Procedures, Rule 601 et seq.</p> <p>Note: The Alaska Supreme Court has consistently deferred to the LBC decisions involving expertise regarding either complex subject matter or fundamental policy formulation as long as the decision has a reasonable basis. See: <i>Mobil Oil Corporation v. Local Boundary Commission</i>, 518 P.2d 92, 98, 99 (Alaska 1974); <i>Valleys Borough Support v. Local Boundary Commission</i>, 863 P.2d 232, 234 (Alaska 1993); <i>Lake and Peninsula Borough v. Local Boundary Commission</i>, 885 P.2d 1059, 1062 (Alaska 1994); <i>Keane v. Local Boundary</i>, 893 P.2d. 1239, 1241 (Alaska 1995); <i>Yakutat v. Local Boundary Commission</i>, 900 P.2d 721, 728 (Alaska 1995).</p>
<p>THE FOLLOWING WOULD OCCUR ONLY IF THE LBC GRANTS THE PETITION</p>	
<p>On the date that the opportunity for reconsideration expires</p>	<p><u>Division of Elections notified of Petition approval.</u> The Director of the Division of Elections will be notified that the Commission has approved the Petition with or without amendments and/or conditions.</p>
<p>Within 30 days of notice from LBC of approval of Petition</p>	<p><u>Election ordered.</u> The Director of the Division of Elections must order an election for the proposed incorporation of the City of Gustavus and for the election of initial officials.</p>
<p>Within 30 to 90 days of the election order</p>	<p><u>Election conducted.</u> State Division of Elections will conduct the election on the incorporation proposition and the election of initial officials.</p>
<p>THE FOLLOWING WOULD OCCUR ONLY IF THE VOTERS APPROVE THE INCORPORATION PROPOSITION</p>	
<p>Upon certification of election results</p>	<p><u>City incorporated.</u> Upon certification of the results of the election showing that a majority of voters approved the incorporation proposition, the city is formed.</p>
<p>1st Monday following certification of election results</p>	<p><u>Elected officials take office.</u> The initial elected seven-member city council takes office. Members determine the length of their terms (one-year, two-years, and three-years) by drawing lots. The Mayor is elected by and from the council for a one-year term.</p>



**State of Alaska
Local Boundary Commission (LBC)**

**Notice of Public Hearing and Decisional Meeting –
Gustavus City Incorporation Proposal
Wednesday, October 29, 2003 – 6:00 p.m.
Gustavus School – Multipurpose Room
Gustavus, Alaska**

The LBC will conduct a public hearing on the date and at the time and place noted above to consider the January 2003 Petition by Gustavus voters for incorporation of the City of Gustavus. Circumstances permitting, the LBC will tour the territory proposed for incorporation before the hearing.

The hearing will be conducted under 3 AAC 110.560. Immediately following the hearing, the LBC may convene a decisional meeting under 3 AAC 110.570 to act on the Petition.

Individuals with disabilities who need reasonable accommodations to participate should contact LBC staff by October 15, 2003. Further information concerning the hearing is available from:

LBC Staff
Department of Community and Economic Development
550 W. 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Telephone: (907) 269-4559
Fax: (907) 269-4539
E-mail: LBC@dced.state.ak.us

Appendix B

Written Comments on DCED's Preliminary Report Regarding the Gustavus City Incorporation Proposal

From Alaska's TRI B&B of Glacier Bay <trigbay@pluto.he.net>
Date Thursday, September 25, 2003 1:43 pm
To LBC@dced.state.ak.us
Subject Gustavus_Incorporation_2003

*Alaska's TRI Bed & Breakfast
of Glacier Bay
P.O. Box 214
Gustavus, AK 99826-0214
907-697-2425
907-697-2450 fax
trigbay@pluto.he.net
September 22, 2003*

*Local Boundary Commission staff
550 W. 7th Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907 269-4539
Email: LBC@dced.state.ak.us*

Re: Gustavus petition to incorporate

Dear Sir:

This letter is in response to your conclusion 7 in your "Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus".

Finding F states that "The Petitioner's revenue estimates for the proposed local bed tax/vacation package and sales tax appear to be reasonable". This finding was based upon historical occupancy rates as supplied by the Petitioner. The projected room occupancy rates were extrapolated from the 2000 and 2001 tourist seasons in Gustavus. Occupancy was projected to be 60% over a 100-day season. The Gustavus Community Associations Board was informed that an occupancy rate of 50-60% during a 100-day season was realistic, with the caveat that 60% occupancy rate was optimistic.

The 2002 season was less than expected. The 2003 season has been less robust than the previous year. In other words, the 2003 tourist season has been dismal. Our business has seen a 50% decline in occupancy rate from the 2001 season.

Finding J states that the Gustavus economy is "somewhat seasonal in nature" and "is expanding and sound". First, Gustavus' economy is heavily seasonal! The two primary employment sectors in Gustavus are tourism related businesses and government employment. Tourism is seasonal-period. Many employment opportunities at Glacier Bay National Park are seasonal. This does not present a healthy economic base. Double-digit deflation in tourism offers adverse circumstances for any potential City of Gustavus. In addition, an expanding business base is unlikely to occur in Gustavus with the current electric rate of 51 cents per kilowatt-hour. The cost of energy in Gustavus is a major factor that any business or potential business must take into consideration. An additional cost of 2 percent to the cost of energy will surely have an unfavorable factor to any business decision to initiate activities within the City of Gustavus.

It is also interesting to note that the majority of lodge owners and sport fishing charter/operators do not remain in Gustavus in the off-season. Rather, they are in Gustavus during the summer season (to reap their harvest, if you will) then return to their homes in the "lower 48" taking their money with them, thus depriving the community of the benefit of their tax dollars.

Currently the City of Hoonah is in the process of constructing the necessary infrastructure needed to accommodate large ocean going passenger cruise ships. This infrastructure most surely includes land-based attractions and sea based attractions, e.g., whale watching and sport fishing charters. Currently there is a proposal to increase the number of allowed vessel entries into Glacier Bay by approximately thirty percent during the peak tourist season. There is currently no infrastructure in Gustavus (or any plans thereof) that can provide or support any large cruise ships. If the above comes to fruition it can only have a negative impact on independent tourism in Gustavus.

Whale watching tours, sport fishing charters and a day tour boat into Glacier Bay most likely will not be subject to a Gustavus sales tax since the majority of the excursions time/activities will be outside of the proposed boundary of the City of Gustavus. The pertinent question should be: is the projected \$140,000 in sales tax revenue to be derived primarily from the citizens of Gustavus. (It should be noted that although the 2000 census lists 429 permanent residents in Gustavus the true number of year-round inhabitants is probably closure to 350.)

Finding J also states "Gustavus enjoys a relatively high level of property valuation". At this time there are many homes for sale and numerous vacant lots for sale. The asking price of homes and lots has been decreasing and continues to decrease. This may be a reflection of the general U.S and world economy, individual response to a proposed City of Gustavus and related potential tax structure or some combination thereof. However, this does not portend to a healthy Gustavus economy or tax base.

It is our position that the proposed incorporation of the City of Gustavus maybe viable, however the revenue projections do not meet current realities of the economic health of the community. Therefore, the revenue projections from tourism taxes, sales taxes, federal and state transfer monies are not and do not meet the test of scrutiny. It should be noted, that with the current budget constraints to the State of Alaska and the current will of the legislature, that there is no mandate under law that require an Organizational Grant appropriation (to the City of Gustavus) from the legislature. It should also be noted that sales taxes couldn't be deducted from federal income taxes and thus become a greater burden to pay.

Yours Sincerely,

Thomas R. Imboden

To: Local Boundary Commission Staff
550 W. 7th Avenue, Suite 1770
Anchorage, Ak 99501-3510

Fm: Kenneth L. Klawunder – Petitioners Rep.
P.O. Box 156
Gustavus, Alaska 99826

Re: Acceptance of the LBC preliminary report with one exception.

Dear Local Boundary Commission Staff,

As Petitioner's Representative, I send this letter of acceptance of the LBC Preliminary Report with one exception. The petitioners gratefully accept the finding of the LBC and wish to thank them for the hard work and for their position on the Petition for Incorporation of Gustavus as a second class city.

The one exception the petitioners wish to clarify is the reference to the "BED TAX". We greatly regret that an early draft of the provisions for a bed tax was inadvertently included with the original petition. At the General meeting of the Gustavus Community Association conducted on January 9, 2003, the petitioner's representative reported the proposed tax structure of the new city. At that meeting it was made clear to all attendees that a 4% tax would be charged on Beds only and that all other business transactions within the city and recreational activities charged by lodges and Inns would be assessed at the Sales Tax rate of 2%. This was made clear to the people in attendance at that meeting prior to the request for citizens to sign the petition. As the petitioner's representative, I regret the mistake in the petition which was sent to the LBC and take full responsibility for that mistake. I will also personally contact all Lodge and Inn owners to explain the mistake and how the intended Bed Tax will be implemented.

The Petitioners would also like to clarify one item in the budgets of the Landfill, Gustavus Emergency Response, and the Library. It is the intent of the Petitioners that each of the above mentioned budgets would receive \$10,000 above their existing budgets. (Page 63 LBC Preliminary Report) It is the understanding of the petitioners that the existing budgets of these entities were sent as attachments to the LBC along with the Petition. Also the assets of GCA listed on page 65 as \$100,000 is in error. A more recent audit has placed that figure at \$450,000.

The Petitioners will send a letter of support to all those who are registered voters in Gustavus. This letter is meant to clarify the position of the petitioners and to dispel any misconceptions folks may have regarding the formation of Gustavus as a second class city. We send this letter to the LBC for their consideration. Please find a draft of that letter attached.

The Petitioners for the Incorporation of Gustavus as a second class city look forward to working with the LBC at the hearing on Oct. 29th and throughout the remainder of this process.

Sincerely
Kenneth L. Klawunder – petitioner's representative

Dear Gustavus Voter,

Please take just a few minutes and permit us, The Committee for Gustavus Incorporation, to explain why a YES vote is the wise vote on the Incorporation of Gustavus as a Second Class City.

Most of us are here in Gustavus because we enjoy the lifestyle of this area and we enjoy living and working along with like minded folks. Many of us moved here to rekindle the pioneer spirit within us. Through the years we have enjoyed the work of volunteers who have spent countless hours of their time making life better and easier for all of us. These conditions will not change with the coming of City status for Gustavus.

There are some important advantages in becoming a Second Class City and we would like to share some of them with you now. The definition of a government is: To do collectively what we can not do as individuals. The committee in support of a City Government has no hidden agenda, we would merely like to make life easier and better for ourselves and for our families. Becoming a second class city will provide the citizens of Gustavus the ways and means to improve on an already wonderful place.

Why We Need Second Class City Status:

- This community can no longer rely completely on volunteers to provide all the services we enjoy. With City status, some paid positions would be created.
- The population of Gustavus has steadily increased and we can not support all the services residents enjoy merely through donations.
- Citizens desire and deserve some equality in the expense and maintenance of the local roads.
- Gustavus needs capital projects, - boat harbor, boat ramp, bathrooms at the harbor, ferry terminal/freight facility etc. In the past, the State of Alaska has constructed capital projects like these if they can turn them over to a city for maintenance and management.
- Gustavus is in need of a septic pumping and disposal facility and funds necessary to ship hazardous waste from the area
- Volunteers need to be covered by insurance which will come at a much reduced rate when the city is part of the municipal league. (Buildings and vehicles)

What Second Class City Status Would Bring to Us:

- As a city, Gustavus would be able to apply for State and Federal grants which are available to other communities in Alaska. (Block grants to \$500,000 yearly)
- As a City, Gustavus would have the opportunity to take advantage of a tax on tourist activities within its boundaries. (proposed 4% Bed Tax of which 2% would be available to the Gustavus visitors Assoc. for approved advertising, and a 2% Sales Tax on all other services except beds)
- The Gustavus Visitor Association could have funds available to further advertise our area as a vacation destination in its own right.
- As a city, Gustavus would get Forest Receipt money for the maintenance, ditching and surface improvement of roads and some related capital projects. (Up to \$102,000 depending upon the roads maintained. This money is available only to cities.)
- Gustavus would get to select 10% of locally available State Land. Approximately 30 acres. (Available only to cities)
- Gustavus would get Payment in Lieu of Taxes (PILT) for Federal Lands. (\$38,850 yearly. Now available to other incorporated communities)
- Gustavus would get Fish Receipt dollars from the State. (\$1,600)

Other Benefits Second Class City Status Would Bring:

- The city of Gustavus would help financially support: GER, the Landfill, the Library and the Clinic.
- As a city, more State and Federal funding would be available to us because State and Federal agencies prefer to deal with and provide funds to governmental entities for capital improvements and maintenance of facilities.
- Citizen's donations of land or money to the city would be tax deductible.
- City status would provide Gustavus with a representative form of government, not decision by the few who show at one particular meeting. (Rules governed by State Law)
- With the status of a second class city, Gustavus would carry the same clout as other cities within the proposed "Glacier Bay Borough".

What a Second Class City can not do:

- A city can not raise taxes without a vote of the people.
- A city can not exercise powers unless they are expressed in State Statutes.
- A city can not disclose any confidential information provided by businesses.
- A city can not exercise the power of Eminent Domain without a vote of the people.

The community of Gustavus has an opportunity now to become a city with a united voice and a chance to obtain funding for many special projects heretofore not available to a community association. Gustavus may become a tourist destination in its own right and not be the unknown little village near Glacier Bay National Park. We live by the sea and from the sea but we do not have some of the most basic facilities necessary to enjoy this environment. A boat harbor to accommodate local vessels along with some space for visitors will only enhance the income of local families. Our Launch facility is in great need of repair and unusable at some tide levels. Again we depend upon the facilities in the National Park in order to get boats into the water. Without a ferry dock and a freight transfer facility, we will continue to pay for our isolation through high freight costs and an inflated cost of transfer of vehicles in or out of the area. In these times of diminishing State revenue, cities will be receiving less assistance than they did in the past. Communities which are not incorporated will receive even less. As a city, we can continue to provide the services citizens desire through a mere 2% sales tax and a 4 % bed tax.

Becoming a city will not do all things for all folks and nothing will happen overnight but we have seen how difficult it is for our voices to be heard by State agencies through a community association. We sincerely hope you will study this letter and call a member of the committee if you have questions.

If Gustavus does not become a city through this petition, it will be another 3 years after the election before the State will permit the initiation of another long and expensive petition process.

Please vote "YES" in the upcoming election to become a Second Class City.

This letter is paid for by the Committee for Gustavus Incorporation. For more information please call one of the following:

Bruce Tedtsen 697-2290,
Ken Klawunder 697-2422,
Shana Chrondahl 697-2778,
Melanie Nelson 697-2326



United States Department of the Interior

NATIONAL PARK SERVICE
Glacier Bay National Park and Preserve
P.O. Box 140
Gustavus, AK 99826-0140



Tel: 907-697-2230
Fax: 907-697-2654

A38 (GLBA)

SEP 26 2003

Local Boundary Commission Staff
550 West 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Dear Sirs:

I am writing to comment on the recently released Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus. As an integral part of that community the National Park Service is supportive of this effort, including inclusion of that portion of Glacier Bay National Park lying within the Bartlett Cove developed area. As I have stated before, I fully recognize that the social and economic components of these two nodes of our community – Gustavus and Bartlett Cove – are interwoven in myriad and complex ways, and can best be managed within a single municipality.

However, as I also stated before in my comment concerning the petition for incorporation of Gustavus as a second class city government, I do still have one issue with the original petition and this subsequent preliminary report. Although I do not object to the proposed boundary including a portion of the Bartlett Cove area, I continue to take exception with how it is drawn to include a marine portion of the park. In your preliminary report you provide comment on my concerns through an analysis by DCED and further comment by the Petitioner. Neither the analysis by DCED nor the comment by the Petitioner address a few key issues that are very problematic to the function of collecting taxes or fees for use of the marine waters or the dock at Bartlett Cove. They are:

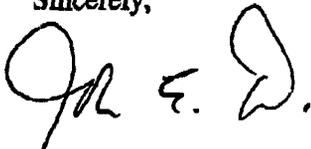
1. By management prerogative Glacier Bay National Park does not allow commercial activities to collect any fees inside the boundary of the park other than official concession activities that are land based in Bartlett Cove. Those receipts are generated elsewhere. Management prerogative is based on normal business practices and visitor needs. Collecting taxes from receipts generated outside the boundary of the proposed city will be problematic.
2. All construction, maintenance and management operations of the dock facility at Bartlett Cove (all public facilities within the park boundary) are provided by federal tax dollars through federal appropriation procedures. Charging an additional tax or fee for the use of those facilities will be very problematic for the proposed city.

3. Any use of the proposed city services by park visitors (or the park) would presumably have an appropriate charge set by the city that adequately covers the cost of those services.

Unless you can adequately address the issues above, I see no benefit from including the marine waters of Bartlett Cove within the municipal boundary. I therefore continue to request that the boundary description be modified to follow the line of the mean high tide from the point where described boundary reaches the shore near the southwest corner of the southeast $\frac{1}{4}$ of section 31, T39S, R58E (CRM), to where it leaves the shore along the northern edge of the southeast $\frac{1}{4}$ of section 29, T39S, R58E (CRM). This boundary would include all areas of the park from which it would derive benefit, while excluding a significant portion of the park over which it would have no management authority.

I thank you for this opportunity to comment on the preliminary report. If you have questions regarding this comment, please contact Jed Davis at (907) 697-2691.

Sincerely,



Tomie Patrick Lee
Superintendent

cc:

Gustavus Community Association

From Thomas & Rhio <trigbay@gustavus.ak.us>

Date Sunday, September 28, 2003 7:41 pm

To LBC@dced.state.ak.us

Subject Comment on Preliminary report on Gustavus incorporation

Rhio Imboden Harper
 P.O. Box 214
 Gustavus, AK 99826-0214
 907-697-2425
 907-697-2450 FAX
trigbay@gustavus.ak.us
 September 28, 2003

Local Boundary Commission
 550W. 7th Avenue, Suite 1770
 Anchorage, AK 99501-3510
 Fax 907-269-4539
LBC@dced.state.ak.us

Dear Sir and Madam:

This letter is in comment to the DCED Preliminary Report to the Local Boundary Commission Regarding the Proposal to Incorporate the City of Gustavus.

I do not disagree with the need for incorporation, in regard to the assumption of the services provided by a small aging group of volunteers.. I seriously question the economic basis the petitioners use for the revenue to provide these services. I also question calculations for expenditures in the proposed operating budget. The creation of a bureaucracy to handle some of the now volunteer services is the only economic growth I expect from the city

Specifically:

In Exhibit E of the petition the Operating Budget expenditure allow \$15,000 for insurance for each year. This seems markedly low to cover the liability of the landfill, GER, GCA building and the library. I spoke with Shana Crondahl, alternative representative for the petition, this past week. She stated that these monies did not include the insurance already purchased by the separate entities. Footnote 3 to the Exhibit E does not explicitly say the type of insurance fire/damage or liability. At this time I do not believe that GER has any liability insurance, only workman's compensation of a limited number of its volunteers. Liability insurance for a volunteer fire department/EMS could easily eat up this line of the budget. For the city to not have adequate insurance is foolish. An August 17, 2003 Anchorage Daily News article reported the marked increase in municipal insurance throughout Alaska. Using their example of Kasaan, a very small town of only 55 people, spends 7% of their operating budget on insurance or over \$16,000 dollars. Using the same 7% for the Gustavus operating budget would require \$29,000 in premiums. The \$15,000 only reflects 3.5% of the Gustavus operating budget. I do not believe the petitioner has done their calculation correctly or in depth enough to give an accurate cost of insurance. (The preliminary report did not show a graph of details of the expenditure of the operating budget, so I had to comment on the petition itself.)

In Standard C.4.e of the report, the community is described as "expanding and sound". All of the items used to base the report are not reflective of the last 3 years, where Gustavus has undergone a fundamental shift.

Since the Glacier Bay Compensation payout the community of Gustavus has lost diversity in its economic basis, and lost families and population. Two large fish/crab processors have ceased operations. (There is one small sport fishing processor with retails sales remaining.) Fishermen were compensated and left town. The diversity is narrowing closer to a one industry town, independent tourism. Gustavus community was compensated \$963,000 to specifically compensate for this loss of diversity and population and jobs. It needs to last a lifetime or more.

The community is not expanding or sound. The store has been for sale for quite some time without buyers. There are three other main service businesses for sale, an air service, the propane and wharfage

companies. There are at least 50 properties of the "345 housing units" for sale, many for some time.

Tourism, specifically independent tourism is decreasing throughout Alaska. Since the events of 2001, the stock market down turns, the general economic downturn and the war this year, traveling to Alaska, as an independent traveler is harder and harder. The petitioner's count of 14 bed and breakfasts/lodges does not take into account the 6 bed and breakfasts/lodges that have closed their businesses, or switched to only long term rentals, because of the traveling market. All in tourism acknowledge that it is very expensive to travel here, and won't get any cheaper soon. Guests frequently ask us regarding the local taxes; they factor that into their decision to visit. (I am a B&B owner). The taxes are not unreasonable or inequitable, but they may influence some travelers.

Yesterday I did a phone/email survey of all the B&B's/lodges, stores, restaurants, boat charter services, expedition services, and the gallery that I could reach in Gustavus:

- One B&B/lodge, one cafe and one transportation service business are down 50% or more
- One B&B/lodge is 25% down
- One B&B/lodge, one expedition service and one gallery are down in their business by 10-25%
- One B&B/lodge, one store (with a perceived decrease in tourist sales), two charter services are even
- Three B&B/lodges, one charter and one expedition services have shown an increase in their business.

These answers are all based by owner estimates of the last two years tourist season (2002-2003) in comparison to 2000-2001 seasons.

The lack of increase across the board to fill the gap of 6 lodgings closing or not renting on a daily tourist basis since 2001 is telling. There is no expansion in the community economy. Using the \$49,000 bed tax revenue estimated by the petitioners multiplied by a conservative 15% loss in bed tax, I estimate a loss of \$2000 minimum in bed tax alone for Gustavus and tourism development. A 15% decrease in the sales tax could make a loss of \$2380. To illustrate the loss of tourist numbers: Goldbelt, the National Park concessionaire for the up bay day trip reduced the size of the boat to travel each day by approximately 50% capacity. This boat is booked by not only the lodge but by nearly every guest to visit Gustavus, including the kayakers. Yet they reduced the occupancy of the boat needed based on their bookings.

Why does the petition use sport fishing/charter (Section 14) as a base for \$1,000,000 in sales, when it appears a separate type of charter, the Glacier Bay day boat trip is left out of the sales? If we don't tax for the portion of the trip the charter is out of Gustavus waters, why do we count the charter boat sales?

In Standard C.4.b (sorry late entry): I believe doubling the cost of insurance to \$30,000 minimum, reducing the income from bed and sales tax by \$3400 is prudent. This would just about wipe out that reserve fund that the city would hold for projects.

In Standard C.4.e the DCED considered the levy of property taxes viable. This is not viable to the residents. I feel it could cause the demise of the community over the long run. Many pieces of property are held here by nonresidents, who hold onto the property simply because they are not here and not taxed. If property tax comes in, what happens when those property owners bolt, trying all to sell the property and our values plummet?

In Standard C.4.g the only discussed development projects proposed or ongoing in the proposed City of Gustavus are for maintenance and upgrade in the National Park. You will notice no building is going on in Gustavus. I do not believe all the park projects are funded. These are often bidded out to outside companies with minimal local hire and the supplies are not purchased locally..

In Standard C.4.h I am one of at least 9 residents of Gustavus who currently commute to Juneau or beyond to work for at least the last three years. We do this because of the lack of employment opportunities here. At least 4 of us have businesses in Gustavus, yet we need to travel to make ends meet.

In Standard E.4.a.4 In regard to the Gustavus dock, Mr. Hughes analysis and "enthusiastic welcome" to

a city government does not discuss the assumption that if a new dock were built in Gustavus, maintenance would have to assumed by the local government i.e. the City of Gustavus. The petitioner does not build that tax burden potential in to their proposed budget. No one has ever given the estimates of cost. Several petitioners have expressed opinions that the only way Gustavus will get a dock fitted to our needs is to incorporate. It is touted as one of the reasons for incorporation. I believe founding the city on the promise of any extra leverage in obtaining funding for "rectifying" dock problems is extremely optimistic in the light of the current political administration's emphasis on surface road building and concurrent non funding of already proposed ferry service in the Southeast.

In conclusion, I support the concept of the city, but I believe the basis for the budget and therefore the expenditure proposed are mistaken and unreliable. I believe both residents and visitors should pay for the cost of the services potential and actual. The services to be covered by the city at this time all meet these above standards. But to what self-growing degree? Will tourism decrease while the expected services to be provided also increase? I fear the following scenario of the city government infrastructure growing; the income drops, and the property owners are faced with property taxes to support the city services. When all the properties get dumped on the market, will our property values drop, but the assessments remain? Where are the jobs to support the cost of property ownership?

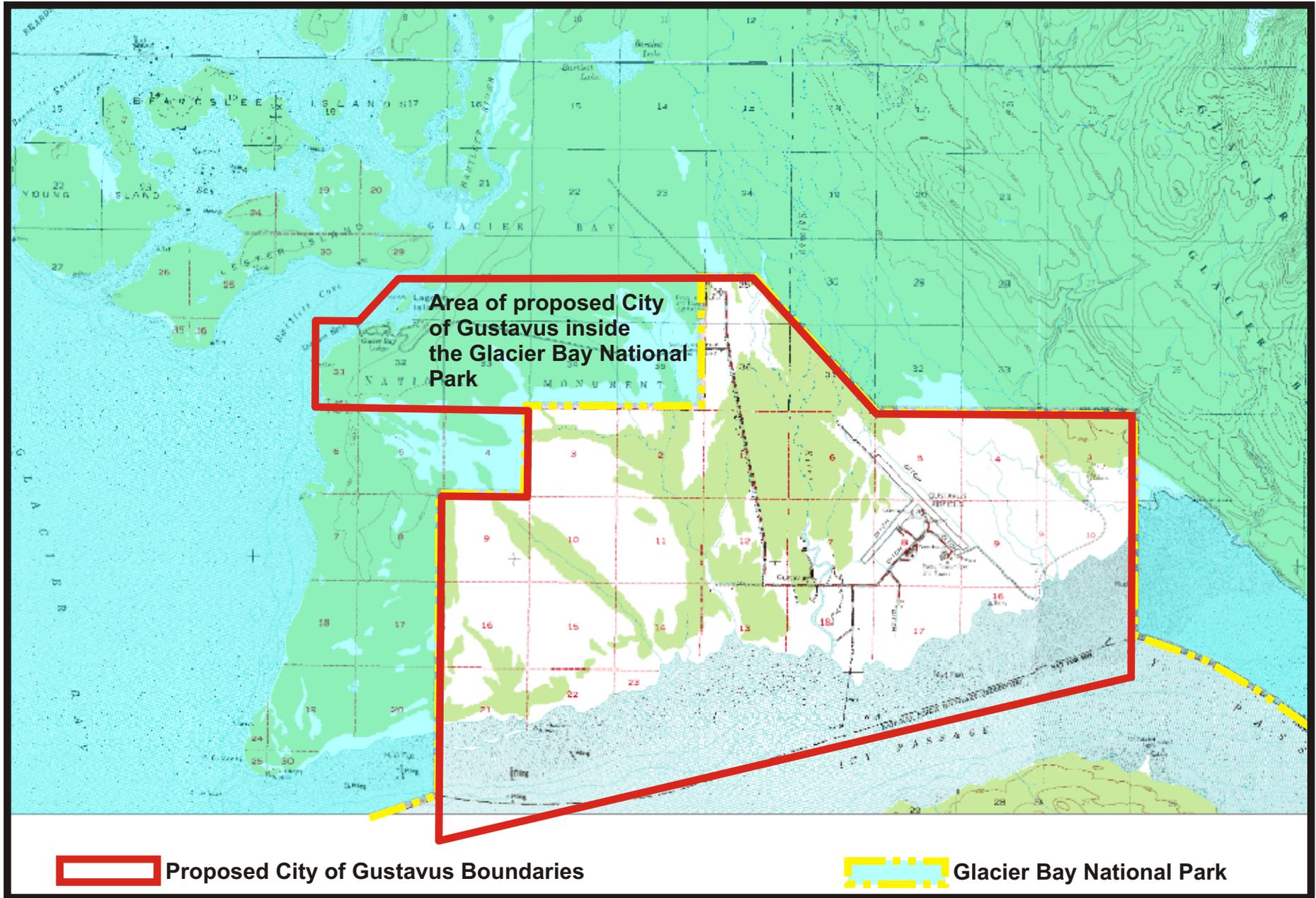
Yours Sincerely,

Rhio Imboden Harper

Appendix C

Maps

Map 1



Map 2



- National Park Service and affiliated areas**
- National Park or National Monument
 - National Preserve
 - National Historical Park
 - Affiliated area
 - National Wild or Scenic Rivers
- 1 Alagnak
 - 2 Alaina
 - 3 Aniakchak
 - 4 Charley
 - 5 Chilkadroina
 - 6 John
 - 7 Kobuk
 - 8 Mulchatna
 - 9 Noatak
 - 10 Koyukuk (North Fork)
 - 11 Salmon
 - 12 Tinayguk
 - 13 Tikakila

